

Rule 26, Ariz. R. Crim. P. – Sentencing

RESTITUTION: Determination of restitution amount.....Revised 3/2010

“An order of restitution must reflect the loss the victims actually suffered.”

State v. Proctor, 196 Ariz. 557, 567 ¶ 36, 2 P.3d 647, 657 (App. 2000); accord A.R.S. § 13-804(B). The amount of the victim’s loss is determined as of the time of the defendant’s offense. In *State v. Wolter*, 197 Ariz. 190, 3 P.3d 1110 (App. 2000), the victim’s motorcycle was stolen in May 1997; at the time it was worth almost \$3,000. In April 1998, the defendant bought the damaged motorcycle for \$500, knowing it was stolen. He was found guilty of theft of property worth more than \$2,000, and the victim then sought restitution for the full amount the motorcycle was worth when it was originally stolen. The Court of Appeals held that the value of the motorcycle should be determined as of the time the defendant acquired it in April 1998, both for purposes of the degree of the theft and for restitution purposes. See also *State v. Ellis*, 172 Ariz. 549, 838 P.2d 1310 (App. 1992) (holding that restitution should be based on the fair market value of the victim’s property at the time of the victim’s loss, not on replacement value).